

THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Attorney Docket No. 13935US02)

In the Application of:	)	
	)	
Lee, et al.	)	Electronically Filed
	)	
Serial No. 10/629,207	)	
	)	
Filed: 7/29/2003	)	
	)	
Examiner: Rahman	)	
	)	
Group Art Unit: 2116	)	
	)	
Conf. No. 5674	)	

**Pre-appeal Brief**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This correspondence is in response to the final office  
action of 10/2/2009.

## **REMARKS**

Claims 34-43, 45, 46, and 49-60 are presently pending and stand rejected. Claims 1-33, 44, 47, and 48 are cancelled without prejudice. Claims 34-43 and 45-48 were rejected. Assignee respectfully requests pre-appeal review of certain rejections.

Claim 34 recites, among other limitations, "wherein selecting the power state further comprises: configuring a PHY layer to restart and negotiate at a predetermined speed; and increment advertized capabilities until link presence is detected".

The Office Action indicates that Mills teaches "330 moves to 310 where auto-negotiation is performed at a predetermined speed; lines 15-35 of column 4, line 65 of column 4 through line 22 of column 5; lines 30-40 of column 14). Assignee respectfully traverses the rejection and notes that Mills does not teach "negotiate at a *predetermined* speed". Accordingly, Assignee respectfully requests that the rejection to claim 34 and 49 be reversed.


## **Conclusion**

For at least the foregoing reasons, it is respectfully submitted that each of the pending claims are allowable, thereby placing the application in a condition for allowance. Accordingly, a notice of allowance is respectfully requested.

It is believed that all monies for any actions requested in this correspondence are submitted with this correspondence. To the extent that additional monies are required for any actions requested in this correspondence,

Commissioner is authorized to charge deposit account 13-0017.

Respectfully Submitted,



Date: June 4, 2009

Mirut Dalal  
ATTORNEY FOR APPLICANTS  
Reg. No. 44,052

McANDREWS, HELD & MALLOY  
500 W. Madison - 34<sup>th</sup> Floor  
Chicago, IL 60661

Phone: (312) 775-8000  
FAX: (312) 775-8100

